

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

HODELL-NATCO INDUSTRIES, INC.)	CASE NO. 1:08 CV 2755
)	
Plaintiff,)	JUDGE LESLEY WELLS
)	
v.)	Memorandum in Support of Motion to Strike
)	Supplemental Exhibit Lists Filed by SAP
SAP AMERICA, INC., et al.)	America, Inc. and SAP AG
)	
Defendants.)	

Plaintiff Hodell-Natco Industries, Inc. (“Hodell”) submits the following Memorandum in Support of its Motion to Strike the Supplemental Exhibit List [ECF #231] and Second Supplemental Exhibit List [ECF #268] filed by Defendants SAP America, Inc. and SAP AG (“SAP”).

In support, Hodell states that both of SAP’s Supplemental Exhibit Lists were filed well after the Court-Ordered deadline of September 23, 2014. [See ECF #193 at 4]. Specifically, SAP’s first Supplemental Exhibit List [ECF #231] was filed on October 8, 2014, the day after Hodell had filed its Objections to SAP’s initial Exhibit List and two weeks after the Trial Order’s deadline for identifying exhibits. SAP’s first Supplemental Exhibit List consists of ninety-five (95) new exhibits, only nine (9) of which were marked as exhibits during a discovery deposition. On October 15, 2014, Hodell filed its Objections to this Supplemental Exhibit List and objected on the basis that this Supplemental Exhibit List was untimely filed. [ECF #252].

On January 27, 2015, less than one month from the beginning of trial, SAP filed a Second Supplemental Exhibit List. [ECF #268]. SAP’s Second Supplemental Exhibit List contains an

additional forty-five (45) exhibits, only nineteen (19) of which were marked as exhibits during discovery depositions.

SAP's continuous "supplementing" of its Exhibit Lists is unduly prejudicial to Hodell's ability to prepare its case for trial. SAP cannot reasonably contend that omitting 140 exhibits from its original Exhibit List was merely an oversight. Rather, SAP is clearly attempting to preclude Hodell from preparing for trial by systematically supplementing its exhibits with voluminous new documents mere weeks before trial.

Accordingly, Hodell requests that SAP's Supplemental Exhibit List [ECF #231] and Second Supplemental Exhibit List [ECF #268] be stricken. Hodell does not, however, object to the following exhibits on SAP's Second Supplemental Exhibit List because these documents are also on Hodell's Exhibit List: Exhibit Nos. 5, 82, 85, 119, 123, 129, 130, 131, 138, 143, 152, 240, and 251.

Dated February 5, 2015

Respectfully submitted,

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